

09/894,327

MS163228.01 / MSFTP234US

REMARKS

Claims 1-27 are currently pending in the subject application and are presently under consideration. Claims 1, 6, 11, 19-20, and 22-24 have been amended herein. A listing of claims can be found on pages 7-13. In addition, the specification has been amended as indicated on pages 2-6.

Applicants' representative thanks the Examiner for courtesies extended during the telephonic interview conducted on August 18, 2005, where it was indicated that amendments made herein would overcome the current 35 U.S.C. §102(e) and 35 U.S.C. §103(a) rejections with respect to claims 1-27.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1-5, 9-10, and 20-24 Under 35 U.S.C. §102(e)

Claims 1-5, 9-10, and 20-24 stand rejected under 35 U.S.C. §102(e) as being anticipated by Hiroi (US 6,256,071 B1). It is requested that this rejection be withdrawn for at least the following reason. Hiroi does not describe each and every element of the subject claims.

For a prior art reference to anticipate, 35 U.S.C. §102 requires that "*each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." See *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (quoting *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)) (emphasis added).

Applicants' claimed invention relates to a transportable identifier and system and method to facilitate access to broadcast data. (See pg. 1, ll. 6-7). In particular, amended independent claim 1 (and similarly amended independent claims 20 and 22-23) recites *a transportable object. . . to facilitate data communications between users of the transportable object*. Hiroi does not describe this aspect of the invention as claimed.

Hiroi describes a receiver that receives and stores broadcast data in memory using a low power consumption mode and transfers the stored broadcast data to a receiver

09/894,327

MS163228.01 / MSFTP234US

storage device when the receiver is fully energized for data browsing by a user. (See col. 2, ll. 43-48). The cited reference describes data elements that are broadcast on a schedule determined by the digital television broadcast system provider, as well as to the user community through numerous techniques, including terrestrial TV, satellite TV, and cable TV. (See col. 5, ll. 56-65). However, Hiroi does not facilitate communication between members of the user community and thus does not describe *a transportable object . . . to facilitate data communications between users of the transportable object*.

Furthermore, amended independent claim 23 (and similarly amended independent claim 24) recites *a pattern recognition component that evaluates a pattern relating to characteristics of an entity associated with the target data and identifies the entity*. Hiroi does not describe this claimed aspect of the invention.

Although Hiroi discloses a broadcast data packet that includes a header comprised of eight fields: category, date, time, size of description, description, data type, size of location, location (See col. 5, ll. 25-45), Hiroi fails to *evaluate a pattern* relating to characteristics of an entity to identify the entity. Any identifying information in the cited reference is based on text description. By contrast, the claimed invention employs various data collection elements including, for example, a camera to capture time-based images of the region surrounding the target data for pattern recognition processing. (See pg. 15, line 25—pg. 16, line 5). Evaluation of the characteristics derived from the images determines the entity's identity.

In view of at least the foregoing, it is readily apparent that Hiroi does not describe the invention as recited in independent claims 1, 20, and 22-24 (and associated dependent claims 2-5, 9-10, and 21). Accordingly, this rejection should be withdrawn.

II. Rejection of Claims 6-8, 11-19, and 25-27 Under 35 U.S.C. §103(a)

Claims 6-8, 11-19, and 25-27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hiroi. Withdrawal of this rejection is requested for at least the following reasons. As noted above, Hiroi does not describe the invention as recited in amended independent claims 1 and 24 from which claims 6-8 and 25-27 depend.

In addition, Hiroi does not teach or suggest all the limitations of the subject claims as recited in independent claims 11 and 19.

09/894,327

MS163228.01 / MSFTP234US

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) ***must teach or suggest all the claim limitations.*** See MPEP §706.02(j). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. See *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added).

In particular, amended independent claims 11 and 19 recite a similar limitation: ***the transportable identifier facilitates data communications among multiple users of the transportable identifier.*** As explained above, Hiroi is silent regarding communication between users of the transportable identifier. Therefore, Hiroi does not teach or suggest the invention as recited in independent claims 11 and 19 from which claims 12-18 depend and this rejection should be withdrawn.

09/894,327

MS163228.01 / MSFTP234US

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP234US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

AMIN & TUROCY, LLP



Himanshu S. Amin

Reg. No. 40,894

AMIN & TUROCY, LLP
24TH Floor, National City Center
1900 E. 9TH Street
Cleveland, Ohio 44114
Telephone (216) 696-8730
Facsimile (216) 696-8731